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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,260	12/03/2003	Thomas W. Parker	3984500-145102	4922

23570 7590 08/23/2006

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EXAMINER

SHAKERI, HADI

ART UNIT PAPER NUMBER

3723

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,260	PARKER ET AL.	
	Examiner	Art Unit	
	Hadi Shakeri	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12,20-27 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12,20-27 and 35-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

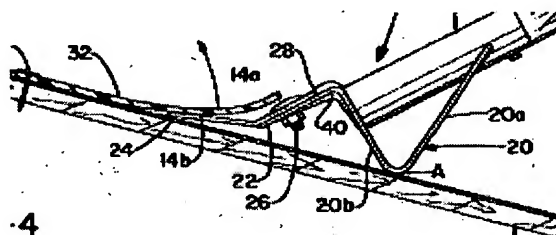
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-4, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crookston (4,809,436) in view of Hopper and Carroll (5,893,304).

Crookston meets all of the limitations of claim 1, except for a pair of wheels. Hopper teaches the use of wheels as the fulcrum points.

It would have been obvious to one of ordinary

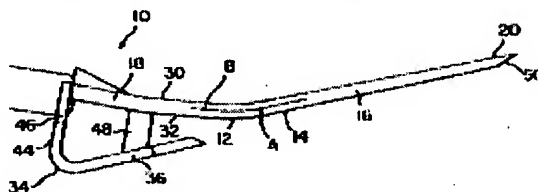


skill in the art, at the time the invention was made, to modify the invention of Crookston with the fulcrum points as taught by Hopper to improve the operation, e.g., smooth movement.

The modification as applied above, meets all of the limitations, except for the blade to be substantially parallel to the roof. However, the slight angle between the roof and the planar section (14b) is due to the included angle between the upper surfaces of (14a) and (14b). Crookston disclose a removable blade (14), and different blades may have different angles formed between 14a and 14b, designed for different purposes, e.g., cutting through nails and

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ripping off shingles (not intended to be used again), wherein a larger angle resulting in non-parallel blade as disclosed, may be desired or a smaller angle for prying shingle free, intended to be reused, wherein a substantially parallel blade would be provided. This is further evident by Carroll. Carroll teaches a roofing removal tool wherein the blade 36 (fulcrum 34) is generally parallel with the planer portion of the blade (forward portion 16 of tines 14) resulting in the planar portion to be substantially parallel to the roof.

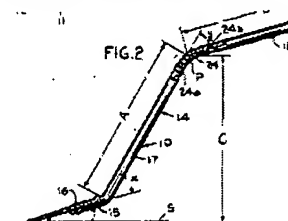


Therefor modifying the angle/shape of the blade for different purposes are considered modification obvious to one of ordinary skill in the art depending on the intended and/or operational parameters, and since it has been held that changing shape, dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954) and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 and/or obvious in view of Carroll to allow for smooth and efficient operation of the tool for rapid shingle and nail removal.

Regarding claims 2-4, 8 and 9, prior art meets the limitations.

3. Claims 5-7, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable prior art as applied to claim 1 above, and further in view of Zeisig (3,222,699).

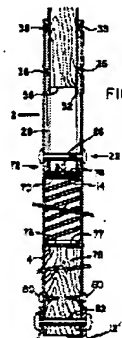
Crookston meets all of the limitations of the above claims, except for the shape of the handle, an obvious modification in view of Zeisig as indicated in the previous office action for ergonomic handles.



4. Claims 10, 20-25, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over prior art as applied to claim 1 and further in view of Jacob et al.

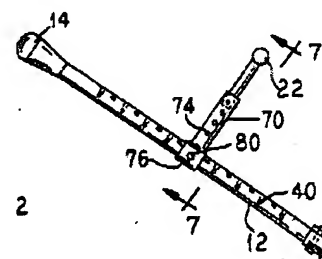
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Prior art meets all of the limitations of the above claims, except for the rear grip to have a passage slidably receiving a rear end of the shaft and the resilient material there between, an obvious modification in view of Jacobs et al. as indicated above and in pervious office action. Regarding claims 15, 16 and 37, the sidebars forming the rear grip, each makes an included angle of less than 90 degrees relative to the central axis.



Regarding claims 20-25, the prior art meets all of the limitations, except that the pin is engaging a slot in the shaft instead of engaging a slot in the passage. It would have been obvious to one having ordinary skill in the art at the time the invention was made to engage the pin (26) within a slot in the rear grip instead of a slot in the shaft to provide the relative movement, since it has been held that a mere reversal of the essential working parts of a devise involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

5. Claims 11, 12, 18, 19, 26, 27 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over prior art as applied to claim 1, and claim 20 above further in view of Adams.



Prior art meets all of the limitations of the above claims, except for a fore grip located along the shaft and axially adjustable, an obvious modification in view of Adams as indicated above and in pervious office action. Regarding claims 28-34 and 38, prior art as modified by Adams meets the limitations.

Response to Arguments

6. Applicant's arguments filed June 16, 2006 have been fully considered but they are not persuasive. The argument regarding the planar portion of the blade is not persuasive, since as indicated above, modifying the blade to provide a planar portion substantially parallel to the roof

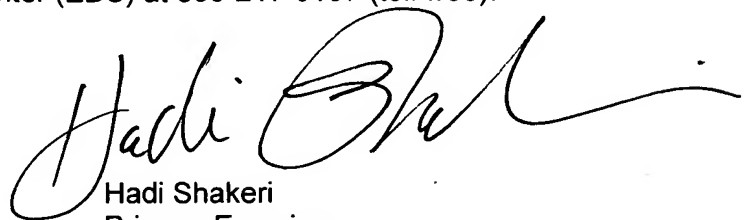
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is considered to be obvious to one of ordinary skill in the art depending on the workpiece/ operational parameters. The argument regarding claim 20, that the pin extends into slots on the passage of the rear grip, to limit the axial movement is not persuasive either, as indicated above, since reversing the parts, i.e., securing the pin to the shaft and limiting the relative movement by engaging a slot in the rear grip instead of a pin secured to the rear grip limiting the relative movement by engaging the passage in the shaft is obvious to one of ordinary skill in the art. See *In re Einstein*, 8 USPQ 167.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 571-272-4495. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hadi Shakeri
Primary Examiner
Art Unit 3723

August 15, 2006